



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-25

Application of the Code of Ethics to a Former State
Employee Seeking to Contract With His or Her
Former Agency

The Fiscal Services Administrator for the Seaside Center, Region 6, Department of Mental Retardation, has asked whether an employee who leaves state service and then returns on a contractual basis to his or her former agency within one year thereafter has violated the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I.

Section 1-84b(b) of the Code states that:

No former executive branch or quasi-public agency public official or state employee shall, for one year after leaving state service, represent anyone, other than the state, for compensation before the department, agency, board, commission, council or office in which he served at the time of his termination of service, concerning any matter in which the state has a substantial interest.

The Ethics Commission has previously ruled that to "represent" means to do any activity that reveals the identity of the former state employee, e.g., appearing in person, signing a document, or identifying oneself on the telephone. See, Ethics Commission Advisory Opinions No. 86-11, 48 Conn. L.J. No. 18, p. 1D (10/28/86) and No. 87-8, 49 Conn. L.J. No. 4, p. 1C (7/28/87).

The prohibition of §1-84b(b) prevents the former employee from representing "anyone, other than the state". In order for the former employee to apply for and accept a consulting or other contract with the former state agency/employer, he or she must necessarily contact the agency and reveal his or her identity. There is no exception in the statute for representation of oneself: the former employee may only represent the State, i.e., another agency or department, during the one-year period. "The careful delineation of the bounds of [an] exemption gives unusual force to the principle that the express mention in a statute of one exemption precludes reading

others into it." Connecticut Light & Power Company v. Walsh,
134 Conn. 295, 301 (1948).

The federal revolving door law, after which Connecticut's law was patterned, prohibits certain Government employees from making "any formal or informal appearance before, or, with the intent to influence, mak[ing] any oral or written communication on behalf of anyone other than the United States, to...the department or agency in which he served as an officer or employee, or any officer or employee thereof" in connection with, among other things, any application or contract pending before the department or agency, for one year after termination of service. 18 U.S.C. §207(c). The federal code does have an exception for appearances related to matters of a "personal and individual nature", but that exception applies to matters like income taxes or pension benefits, and is therefore not helpful here. 18 U.S.C. §207(i). Thus, without more, the federal rule, like the Connecticut statute, prevents a former employee from returning to his or her former agency within one year in an effort to contract with that agency.

The federal Office of Government Ethics has addressed this issue by regulation, however. The specific prohibition of 18 U.S.C. §207(c) does not apply to "discussions in contemplation of being employed by the agency as a consultant or otherwise." 5 CFR Ch. 1, §737.11(h)(1), (1-1-89 Ed.).

In the absence of language similar to that found in the federal regulation, Connecticut's statute does not allow a former employee who wishes to contract personally with his or her former agency to do so within a year after leaving the agency. Conn. Gen. Stat. §1-84b(b).

By order of the Commission,



William A. Elrick
Chairperson

Dated 9/11/89